

By: King of Hemphill

H.B. No. 433

A BILL TO BE ENTITLED

AN ACT

relating to imposing a tax on the generation of electricity by certain electric generators; providing penalties; creating a criminal offense.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle E, Title 2, Tax Code, is amended by adding Chapter 165 to read as follows:

CHAPTER 165. TAX ON GENERATION OF ELECTRICITY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 165.001. DEFINITIONS. In this chapter:

(1) "Affiliated power generation company," "electric utility," and "exempt wholesale generator" have the meanings assigned by Section 31.002, Utilities Code.

(2) "Electric cooperative" has the meaning assigned by Section 11.003, Utilities Code.

(3) "Electric generator" includes:

(A) an affiliated power generation company;

(B) an electric utility or electric cooperative that owns or operates for compensation in this state equipment or facilities to generate electricity in this state;

(C) an exempt wholesale generator; and

(D) a power generation company.

(4) "Power generation company" has the meaning assigned by Section 31.002, Utilities Code, except that the term

does not include a distributed natural gas generation facility, as that term is defined by Section 31.002, Utilities Code.

SUBCHAPTER B. IMPOSITION AND COLLECTION OF TAX

Sec. 165.021. TAX IMPOSED. A tax is imposed on each electric generator in this state that generates electricity using an energy source other than natural gas.

Sec. 165.022. RATE OF TAX. The rate of the tax imposed by this chapter is one cent for each kilowatt hour of electricity generated using an energy source other than natural gas.

Sec. 165.023. PAYMENT OF TAX. On or before the 25th day of each month, each electric generator on whom a tax is imposed by this chapter shall send to the comptroller the amount of tax due under this chapter for the preceding month.

Sec. 165.024. REPORTS. On or before the 25th day of each month, each electric generator on whom a tax is imposed by this chapter shall file with the comptroller a report stating:

(1) the number of kilowatt hours of electricity generated during the preceding month using an energy source other than natural gas; and

(2) any other information required by the comptroller.

Sec. 165.025. RECORDS. A person on whom a tax is imposed by this chapter shall keep a complete record of:

(1) the number of kilowatt hours of electricity generated during the preceding month using an energy source other than natural gas; and

(2) any other information required by the comptroller.

SUBCHAPTER C. PENALTIES AND OFFENSES

1 Sec. 165.051. INTEREST ON DELINQUENT TAX. A tax imposed by
2 this chapter that is delinquent draws interest as provided by
3 Section 111.060.

4 Sec. 165.052. PENALTY. (a) An electric generator on whom a
5 tax is imposed by this chapter and who fails to file a report as
6 required by this chapter or does not pay the tax when it is due
7 forfeits to the state a penalty of 12 percent of the amount of tax
8 that is delinquent.

9 (b) If a report required by this chapter is not filed or a
10 tax imposed by this chapter is not paid on or before the 30th day
11 after the date it is due, the electric generator on whom the tax is
12 imposed forfeits to the state a penalty of an additional 12 percent
13 of the amount of tax that is delinquent.

14 (c) The minimum penalty under this section is \$1.

15 Sec. 165.053. CRIMINAL PENALTY. (a) A person who violates
16 this chapter commits an offense.

17 (b) An offense under this section is a Class C misdemeanor.

18 SUBCHAPTER D. ALLOCATION AND USE

19 Sec. 165.071. ALLOCATION OF TAX REVENUE. The revenue from
20 the tax imposed by this chapter shall be deposited to the credit of
21 the foundation school fund.

22 SECTION 2. This Act takes effect September 1, 2021.